Court No.2

Matrimonial First Appeal No.57 of 2002.

Hemant Kumar …. Appellant.

Versus

Smt. Madhu

….. Respondent.

…….

Hon'ble P.C.Verma,J.
Hon'ble Irshad Hussain,J.

This is an appeal against the order dated 17.09.2002 passed in execution case no. 22 of 2002 passed by the Presiding Officer, Family Court Dehradun.

Sri J.P. Joshi, Advocate, who has accepted notice on behalf of the respondent, submitted that this appeal is not maintainable as this is not an order which is sough to be executed but it is an order which has been passed in execution proceedings.

The learned counsel for the appellant submits that section 19 of the Family Courts Act, 1984(hereinafter called as an Act) provides that an appeal shall lie before the High Court against any judgment or order passed by the Family Court. Section 18 of the Act provides that a decree or an order passed by a Family Court shall have the same force and effect as a decree or order of a Civil Court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure for the execution of decrees and orders. Therefore, the meaning of the word 'order' is to be ascertained from section 18. Section 18 and 19 of the Act read together give the clear cut meaning of the word 'order', i.e. an order which is capable of being executed. Only against this, the appeal shall lie. Therefore, we find force in the contention of Sri J.P. Joshi, learned counsel for the respondent and hold that the appeal is not maintainable.

The appeal is dismissed accordingly. However, it is open for the appellant to avail any other remedy available to him.

(Irshad Hussain, J.) **(P.C.Verma, J.)**

03.10.2002
P.Singh